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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
MORIHIRO SADA, ET AL.	: EXAMINER: D. E. BECKER
SERIAL NO: 09/903,788	:
FILED: JULY 13, 2001	: GROUP ART UNIT: 1761
FOR: METHOD AND APPARATUS FOR MANUFACTURING CHARCOAL GRILLED FOODS	:

REMARKS ON ADVISORY ACTION COMMENTS

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Favorable reconsideration of the above-referenced application, in view the present RCE filing and in light of the following discussion, is respectfully requested.

In the Advisory Action mailed on December 31, 2003, three comments were made in support of the conclusion that the amendments submitted on October 22, 2003 were not going to be entered.

First, it was asserted that "it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicants' disclosure, such a reconstruction is proper." Second, it was asserted that "Applicants presented arguments that the Examiner has combined an excessive number of references." And third, it was lastly asserted that "Applicants argued nonobviousness by

attacking references individually." As further substantiated herein below, Applicants respectfully submit that such a characterization of Applicants' arguments submitted on October 22, 2003 is incorrect. In order to expedite the prosecution of this application, Applicants respectfully submit the following rebuttal comments.

As to the first point, Applicants respectfully reiterate that the proposed line of reasoning in support of the motivation to combine Crain and Wrasse is not convincing because it fails to consider the basic fundamental difference between the combustion process in Crain and the combustion process in Wrasse (see, for example, Amendment of October 22, 2003, page 9, line 17 – page 10, line 21). Based on this fact, even though the references may be combined, Applicants respectfully submit that the motivation to combine is not found on the knowledge within the level of ordinary skill in the art, but in the use of impermissible hindsight using Applicants' disclosure as a roadmap.

As to the second point, Applicants respectfully submit that the Amendment of October 22, 2003 does not contain a statement with reference to an excessive number of references being used.

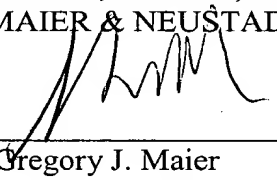
As to the third point, Applicants respectfully submit that no argument was presented against a single reference for a rejection based on a combination of prior art references. As to the rejection of Claims 6, 9, and 13, it was clearly stated, starting on page 6, line 12 of Applicants' Specification, that Crain, Pfleiderer, and Wrasse, individually or in any combination thereof, do not support a *prima facie* case of obviousness of the invention recited in the presently amended independent Claim 6. In addition, after an extensive discussion of Crain, it was clearly stated that Pfleiderer, being cited for disclosing an apparatus comprising a chain, ingredients conveyor, and Wrasse, being cited for disclosing an apparatus comprising an air blower and temperature sensor, do not remedy the lack of teaching or disclosure of Crain (Id., page 9, lines 13-16).

As to the rejection of Claims 7, 8, 10, and Claim 11, please note the statement on page 11, starting on line 16, that "Nalbach and Harris, being cited for the disclosure of an apparatus comprising a mesh or net conveyer and a cooking device comprising a brush for applying sauce, respectively, do not remedy the above-noted deficiencies of Crain, Pfleiderer, and Wrasse. For this reason, Applicants respectfully submit that Crain, Pfleiderer, Wrasse, Nalbach, and Harris, individually or in any combination thereof, do not support a finding of obviousness of the invention recited in Claims 7, 8, 10, and 11 and respectfully request that the Examiner withdraw the rejection of those claims under 35 U.S.C. § 103(a)."

Applicants respectfully submit that Claims 6-11, 13, and 14-18 are believed to be in condition for allowance, and an early notice thereof is respectfully solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



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